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EXTRAORDINARY

PART II—Section 2

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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 13th April, 1960:—

I

BILL No. VII OF 1960

A bill to amend the Evacuee Interest (Separation) Act, 1951.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Evacuee Interest (Separation) Amendment Act, 1960. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After sub-section (2) of section 6 of the Evacuee Interest Amendment Act, 1951 (hereinafter referred to as the principal Act), Amendment of section 6.
the following sub-section shall be inserted, namely:—

“(3) No application under this section shall be entertained if filed after the expiry of six months from the commencement of the Evacuee Interest (Separation) Amendment Act, 1960.”

3. In sub-section (1) of section 7 of the principal Act, the proviso Amendment of section 7.
shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Evacuee Interest (Separation) Act, 1951, was enacted with the object of separating evacuee and non-evacuee interests, where the two interests were found to be admixed in one and the same immovable property. The proceedings under the Act commence with the lodging of information relating to such properties by the Custodians or on applications made by the claimants under section 6 thereof. Certain difficulties are being experienced in the working of this Act as no period of limitation is prescribed under section 6 for filing of claims by the claimants, with the result that new claims are being filed by interested parties even now after a lapse of 9 years and can continue to be filed, for all times to come. In order to expedite the completion of the work under this Act, and to bring finality to the proceedings, it is felt necessary to prescribe some time-limit under section 6. The Bill, therefore, seeks to amend section 6 by prescribing a time-limit of six months from its commencement after enactment. It also seeks to omit the proviso to sub-section (1) of section 7 which empowers the competent officers to entertain belated claims.

Since some of the provisions of the Evacuee Interest (Separation) Act, 1951, relate also to certain matters in the State List, necessary legislative steps will be taken by the State Governments also to make the present amendments effective in those States.

NEW DELHI;

MEHR CHAND KHANNA.

The 31st March, 1960.

II

BILL NO. VIII OF 1960.

A bill to validate certain proceedings under the Hindu Marriage Act, 1955

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Marriages (Validation of Proceedings) Act, 1960. Short title and extent.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

25 of 1955. 2. (1) All proceedings taken and decrees and orders passed before the commencement of this Act by any of the courts referred to in sub-section (2), exercising or purporting to exercise jurisdiction under the Hindu Marriage Act, 1955, shall, notwithstanding any judgment, decree or order of any court, be deemed to be as good and valid in law as if the court exercising or purporting to exercise such jurisdiction had been a district court within the meaning of the said Act. Validation of proceedings of certain courts under Act 25 of 1955.

(2) The courts referred to in sub-section (1) are the following, namely:—

The court of an additional judge, additional district judge, joint district judge, assistant district judge, assistant judge and any other court, by whatever name called, not being lower in rank than the court of a subordinate judge.

STATEMENT OF OBJECTS AND REASONS

Section 19 of the Hindu Marriage Act, 1955, provides that every petition seeking relief under that Act shall be presented to the district court. "District court" is defined in that Act to mean the principal civil court of original jurisdiction in the area and to include any other civil court which may be specified by the State Government by notification as having jurisdiction in respect of the matters dealt with in that Act.

2. Under section 21 of the Punjab Courts Act, 1918, provision is made for courts of additional judges to discharge such of the functions of a district judge as may be assigned to them by the district judge and who in the discharge of their functions exercise the same powers as the district judge. In a recent decision of the Punjab High Court [*Janak Dulari v. Narayan Das*, A.I.R. (1959) Pun. 50] the Court has, however, held that the court of an additional judge cannot be regarded as a principal court of civil jurisdiction within the meaning of the Hindu Marriage Act and that a district judge to whom a petition under the Act is presented cannot transfer it to an additional judge for trial.

3. The Punjab Courts Act, 1918, extends to the Union territory of Delhi by virtue of a notification issued under the Delhi Laws Act, 1912, and as a result of the notifications issued by the Delhi Administration and the State Government of Punjab on the 24th August, 1959, and 26th January, 1960, respectively under section 3(b) of the Hindu Marriage Act, 1955, the courts of additional judges have now jurisdiction to deal with matters arising under that Act. Action has, however, to be taken to validate decrees and orders passed by additional judges before the issue of these notifications and it is possible that the judgment of the Punjab High Court may also affect decrees and orders, if any, passed under the Hindu Marriage Act, 1955, in other States by courts other than the district court where such courts have been constituted to aid the district court under provisions of law corresponding to the Punjab Courts Act, 1918.

4. The Bill accordingly seeks to validate all proceedings taken and decrees and orders passed by any of the courts specified in clause

2 thereof exercising or purporting to exercise jurisdiction under the Hindu Marriage Act, 1955.

NEW DELHI;

The 9th April, 1960.

R. M. HAJARNAVIS.

S. N. MUKERJEE,
Secretary.

